

## FEE TITLE DONEE RECOMMENDATION LAKE BRITTON PLANNING UNIT

### EXECUTIVE SUMMARY

The Stewardship Council was created to oversee PG&E's Land Conservation Commitment, as set forth in the Settlement and Stipulation,<sup>1</sup> to protect over 140,000 acres of land and to preserve and enhance, on an overall basis, the following six beneficial public values (BPVs): protection of the natural habitat of fish, wildlife, and plants; preservation of open space; outdoor recreation by the general public; sustainable forestry; agricultural uses; and historic values. The Stewardship Council is responsible for developing a land conservation plan and recommending qualified organizations to become involved in the future stewardship of these lands.

The Lake Britton planning unit, located in Shasta County, consists of 61 parcels encompassing approximately 5,704 acres of land. Approximately 3,212 acres have been identified by PG&E as lands outside of Federal Energy Regulatory Commission (FERC) project boundaries and not necessary for current and future utility operations. Therefore, these 3,212 acres are available for fee title donation, see attached map.

In December 2010, the Stewardship Council Board of Directors (Board) recommended the donation of four parcels encompassing approximately 119 acres to the California State Parks. In September 2012, the Board recommended donation of 13 parcels encompassing approximately 1,405 acres to the Bureau of Land Management, Alturas Field Office.

The Stewardship Council has continued to evaluate opportunities for the recommendation of additional donations of land within this planning unit. At this time, Stewardship Council staff is proposing the following recommendation which has been endorsed by the Watershed Planning Committee (Planning Committee):

**USFS (Lassen National Forest)** as the prospective recipient of fee title to approximately 308 acres available for donation within 5 parcels (Parcels 220, 222, 223, 224 and 264), subject to compliance with all of the requirements of the Land Conservation Commitment.

**PGE** to retain fee title to approximately 1,380 acres available for donation within 26 parcels (222, 224, 227, 231, 233-237, 240-243, 254-258, 260, 263, 265-267 and 269-271). This acreage is in addition to the 2,542 acres originally designated by PG&E for retention within 48 parcels (parcels 221, 222, 224-233 and 236-271).

The Planning Committee also recommended that the board accept the USFS's proposed Conservation Covenant as providing satisfactory assurance that the parcels recommended for donation to the USFS in the Lake Britton planning unit will be managed consistent with the purpose of the Land Conservation Commitment.

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<sup>1</sup> California Public Utilities Commission Decision 03-12-035, December 18, 2003 (the "Settlement") and the Stipulation Resolving Issues Regarding the Land Conservation Commitment dated September 25, 2003 (the "Stipulation").

If this fee recommendation is approved by the Board, PG&E would negotiate the transaction agreements with the USFS, and the Stewardship Council would develop a Land Conservation and Conveyance Plan (LCCP) for the property. If approved by the Board, a conservation covenant between the USFS and the Sierra Nevada Conservancy, under which the Sierra Nevada Conservancy would monitor the uses on the subject lands, would be established in lieu of a conservation easement in order to protect the beneficial public values of the lands donated to the USFS.

If this recommendation that PG&E retain approximately 1,380 acres in the Lake Britton planning unit is approved by the Board, PG&E would negotiate the conservation easement once an easement holder is approved by the Board. The Stewardship Council would also develop a LCCP for the property being retained by PG&E.

Adoption of the LCCP by the Board would be the final step in the Stewardship Council's process.

## I. INTRODUCTION AND BACKGROUND

### a. *Planning Unit Description*

The Lake Britton planning unit consists of approximately 5,704 acres of land currently owned by PG&E and is located in Shasta County (see attached map). The planning unit, located at an elevation of 2,700 feet, is comprised of 61 legal parcels along Lake Britton and portions of the Pit River and Hat Creek.

Lands adjacent to, or in the immediate vicinity of, Lake Britton that are not owned by PG&E are owned by the USFS, California State Parks, and private parties. Lake Britton is generally referred to as consisting of two areas, lower and upper Lake Britton, due to the distinct difference in character and level of development between the two areas. The lower lake is more reservoir-like and heavily developed for recreation, while the upper lake is more narrow and river-like with little recreation development.

Lake Britton provides valuable habitat resources and has been identified as a Significant Natural Area by the California Department of Fish and Wildlife. Lower Lake Britton supports a warm-water fishery for introduced game species, while the shallower upper Lake Britton contains higher concentrations of native fish species. The area adjacent to Lake Britton and the Pit River has one of the largest populations of bald eagles within the contiguous United States, and the Pit River System is one of the most important bald eagle nesting areas in California.

Lands within the planning unit provide open space and scenic viewsheds for McArthur-Burney Falls Memorial State Park, Highway 299, and Highway 89, which has been designated as part of the Volcanic Legacy Scenic Byway.

Lake Britton is a popular recreation area for angling, swimming, hiking, picnicking, boating, camping, wildlife viewing, and hunting. The lakeshore day use area contains a beach, marina, picnic area, designated swim area, and boat rental. In addition, lower Lake Britton contains a campground, boat launch, day use area, two private camps, and a moderately-used informal recreation area. There are also 20 recreation trails found in the lower portion of Lake Britton.

The planning unit contains one PG&E Timber Management Unit (TMU) that consists of 2,499 acres of second-growth mixed conifer and eastside pine stands, and may contain some remnant apple orchard trees, along with oaks and incense-cedar. The Lake Britton TMU is currently managed by PG&E for multiple uses in which protection and uses of other resources and facilities may preclude sustained timber management as the highest and best use of portions of the TMU.

Grazing was discontinued on lands within the Federal Energy Regulatory Commission (FERC) boundary in the late 1980s to protect sensitive resources and water quality. Lands outside the FERC boundary appear to have low potential to support grazing activities due to the presence of sensitive species.

The planning unit is located within the Pit River Tribe's ancestral territory. In 1975 the entire shoreline of Lake Britton was federally-designated an archaeological district. In 2008, the archaeological district was expanded and is now referred to as the Pit River Aboriginal Cultural District.

The parcels being recommended for donation to the USFS are generally surrounded by existing USFS lands. Portions of the lands are located within the Pit River canyon near the Pit 3 dam. The parcels represent several different habitat types including oak woodlands and mixed conifer forest.

#### *b. Donee Evaluation Process*

The Stewardship Council received statements of qualifications (SOQs) from seven organizations interested in acquiring fee title to lands available for donation within this planning unit. A list of organizations that submitted SOQs is attached. Of these organizations, the following five organizations were invited to submit LSPs:

- BLM (Alturas Field Office)
- California State Parks
- Shasta County
- Pit River Tribe
- USFS (Lassen National Forest)

All five organizations submitted LSPs. Shasta County originally submitted for a 5 acre portion of the planning unit where the County currently leases property from PG&E and manages a road side park with fishing access to Hat Creek. The County later withdrew interest in receiving a fee title donation.

In evaluating the LSPs, the following factors were considered:

- An evaluation of the potential donees' programmatic, financial, and legal capacity to maintain the property interest so as to preserve and/or enhance the beneficial public values of the planning unit;
- Anticipated funding needs of the potential donees;

- The management objectives for the Lake Britton planning unit as set forth in Volume II of the Land Conservation Plan (LCP);
- Public comments received regarding the desired qualifications of potential donees and the future stewardship of the planning unit;
- The requirements of the Settlement and Stipulation; and,
- Other relevant policies, procedures, and goals adopted by the Stewardship Council.

At this time, staff has completed its evaluation of the LSPs and is recommending a donation of fee title of some lands to the USFS, in addition to the initial recommendation of donations of fee title of other lands to California State Parks and the BLM. Staff is also recommending that PG&E retain an additional 1,380 acres.

## II. EVALUATION

Stewardship Council staff's evaluation of the submitted LSPs included follow-up discussions with the USFS. Based on this evaluation, and in consultation with the Planning Committee, the USFS is being recommended to receive a donation of fee title to lands within the Lake Britton planning unit as follows, subject to compliance with all of the requirements of the Land Conservation Commitment:

**USFS (Lassen National Forest)** as the prospective recipient of fee title to approximately 308 acres available for donation within 5 parcels (Parcels 220, 222, 223, 224 and 264).

This recommendation is based on a determination that the USFS appears to have sufficient financial and organizational capacity to hold and maintain the fee title interests so as to preserve and/or enhance the beneficial public values, as identified, on these lands.

**PGE** to retain fee title to approximately 1,380 acres available for donation within 26 parcels (222, 224, 227, 231, 233-237, 240-243, 254-258, 260, 263, 265-267 and 269- 271).

A donation of fee title to these 1,380 acres is not being recommended because it would result in the creation of parcels that would be difficult for a new landowner, other than the USFS, to manage in the future. A donation of these acres to the USFS is not available due to the provisions of Section 12.b.(4) of the Stipulation relating to expanded authority of federal agencies under Part I of the Federal Power Act (FPA).

### *a. Donee Organizational Capacity*

As summarized below, the USFS appears to possess the organizational capacity and experience to own and manage fee title to the properties recommended for donation, and to preserve and enhance the beneficial public values associated with the subject lands.

- The USFS is a federal agency within the US Department of Agriculture that manages 193 million acres of public land. The mission of the USFS is “to sustain the health, diversity, and productivity of the nation’s forests and grasslands to meet the needs of present and future generations.”

- The Lassen National Forest manages the land surrounding the parcels recommended for donation to them as part of the 1.2 million acre Lassen National Forest. Law, policy, and various regulations govern the management of public lands by the USFS. The 1992-93 Lassen National Forest Land and Resource Management Plan provides direction for the management of natural and cultural resources within the National Forest. The Lassen National Forest also works with various entities to manage the natural and cultural resources in the Pit-McCloud River watershed.

*b. Donee Financial Capacity*

The financial capacity of the USFS was evaluated based on a review of the organization's 2010 operating budget, as well as financial statements for the three prior fiscal years. Based on a review of financial statements submitted, the USFS appears to possess the financial capacity to own and manage the lands being recommended for transfer to them within the Lake Britton planning unit.

*c. Management Objectives*

Volume II of the LCP established certain management objectives for the Lake Britton planning unit (see Volume II Planning Unit Report with attachments). The USFS seeks fee title to lands within the Lake Britton planning unit to achieve a number of proposed management activities, which are described below and appear to be consistent with the established management objectives.

As identified in their proposal and through follow-up discussions with Stewardship Council staff, the Lassen National Forest requested fee title to approximately 1,617 acres of land available for donation that wholly or partially encompass 27 parcels, which are adjacent to or within the Lassen National Forest boundary. Acquisition of these parcels by the USFS would result in consistent management of the natural and cultural resources found within these parcels and surrounding USFS land.

The USFS proposes to manage donated lands consistent with existing access, uses, and management direction on the surrounding Lassen National Forest lands. Moreover, it has been proposed by the USFS that the 1992-93 Lassen National Forest Land and Resource Management Plan (Forest Plan) be amended to incorporate the conveyed parcels and that specific management directions, standards, and guidelines would be developed consistent with the Stewardship Council's BPVs. Specific management activities identified in the USFS proposal include:

- Conduct baseline management activities for archaeological, boundary, range, recreation, road and trail, special use authorization, vegetation, wildland fire, and wildlife management.
- Survey wildlife as well as sensitive and invasive botanical resources.
- Develop and implement an archaeological survey plan to identify and document cultural and historical resources.
- Enhance public access, including installation of interpretive and directional signage.

*d. Funding*

Consistent with the Stewardship Council's Land Conservation Funding Policy, the Stewardship Council may elect to fund certain costs related to the transfer of fee title and/or costs of enhancements to the beneficial public values on watershed lands. Any enhancement project costs to be funded by the Stewardship Council would be identified in a management and funding agreement to be developed by the Stewardship Council in coordination with USFS, the prospective donee.

*e. Requirements of the Settlement and Stipulation*

Section 12(b)(4) of the Stipulation provides that the "Parties agree that the Land Conservation Commitment does not expand or limit PG&E's obligation or the rights of others in Federal Energy Regulatory Commission relicensing proceedings or otherwise under Part I of the Federal Power Act ("FPA"). For example, a land disposition that would result in the creation of FPA Section 4(e) authority in PG&E relicensing proceedings would be inconsistent with this provision." Therefore, the donation of lands to the USFS is conditioned on this Stipulation requirement being satisfied.

The USFS is precluded by existing policy from accepting a conservation easement on lands it acquires. Therefore, a conservation covenant has been proposed by the USFS in lieu of a conservation easement to provide satisfactory assurance that lands conveyed will be managed consistent with the purpose of the Land Conservation Commitment as required by Section 12(d)(2) of the Stipulation. This recommendation to donate fee title to the USFS is also contingent upon the Board finding that the proposed conservation covenant provides satisfactory assurance that the lands conveyed would be managed consistent with the purpose of the Land Conservation Commitment. The Sierra Nevada Conservancy is anticipated to serve as the conservation covenant holder.

The Stewardship Council would work with PG&E and Shasta County to ensure the conveyance of these parcels achieves property tax neutrality.

The grant deed would include an express reservation of rights for continued operation and maintenance of hydroelectric facilities and associated water delivery facilities, including project replacements and improvements required to meet existing and future water delivery requirements for power generation and consumptive water use by existing users, and compliance with any FERC license, FERC license renewal, or other regulatory requirements.

*f. Conservation Partners*

The permanent protection of the Lake Britton planning unit, and the future preservation and enhancement of the BPVs, may involve, and benefit from, the participation of land conservation partners. For the purposes of this recommendation, land conservation partners are defined as organizations other than the prospective fee title donee or conservation easement holder that become involved in future activities on the donated lands and that contribute to the preservation and enhancement of the BPVs. Land conservation partners may be identified in the LSPs submitted by organizations interested in a fee title donation, or during or after the development of the LCCP. Such organizations and activities may be eligible for Stewardship Council funding, depending on the type of organization, proposed activities, availability of funds, and other

factors. Staff would work with the prospective organizations recommended for donation of fee title and conservation easements in this planning unit and evaluate opportunities for land conservation partners. The results of this effort may be reflected in the LCCP or via enhancement projects funded after fee title is transferred to the USFS and a conservation easement is placed on lands recommended for retention by PG&E.

### III. PUBLIC COMMENTS

The Stewardship Council has implemented a public outreach program to engage stakeholders and solicit public input on the development and implementation of the land conservation plan. A summary of key public outreach activities and public comments associated with the Lake Britton planning unit is attached.

### IV. NEXT STEPS

If the Board adopts this recommendation on November 14, 2013, staff would invite the USFS to negotiate specific terms of the transaction with PG&E. PG&E would also negotiate the terms of the conservation easement with the entity that will be recommended by the Board to hold the conservation easement over lands being retained by PG&E. The conservation easement and conservation covenant will be incorporated into the LCCPs that are to be developed for this planning unit.

Adoption of the LCCP by the Board would be the final step in the Stewardship Council's process for selecting donees. The proposed LCCP would be made available for public review and comment before it is approved by the Board.

### ATTACHMENTS AND REFERENCE MATERIAL

- Lake Britton Planning Unit Map
- LCP Volume II Planning Unit Report for Lake Britton Planning Unit
- List of Registered Organizations That Submitted SOQs for Lands Available in the Lake Britton Planning Unit
- Summary of Key Public Outreach Activities and Public Comments Associated with the Lake Britton Planning Unit

## Lake Britton Planning Unit

The Lake Britton Planning Unit report located in LCP Volume II can be found at this link:

[http://lcp.stewardshipcouncil.org/Vol\\_2/pdf/05\\_1\\_LakeBrittonText.pdf](http://lcp.stewardshipcouncil.org/Vol_2/pdf/05_1_LakeBrittonText.pdf)

The aerial map to the Lake Britton Planning Unit can be found at this link:

[http://www.stewardshipcouncil.org/maps/Lake\\_Britton\\_aerial\\_mapbook\\_reduced.pdf](http://www.stewardshipcouncil.org/maps/Lake_Britton_aerial_mapbook_reduced.pdf)

The existing conditions maps to the Lake Britton Planning Unit can be found at this link:

[http://www.stewardshipcouncil.org/maps/Lake\\_Britton\\_ex\\_mapbook\\_reduced.pdf](http://www.stewardshipcouncil.org/maps/Lake_Britton_ex_mapbook_reduced.pdf)





## **Lake Britton Planning Unit**

### Registered Organizations that Submitted Statements of Qualifications for Lands Available for Donation

California Department of Parks and Recreation (State Parks)  
County of Shasta  
Environmental Education Council of Marin  
Pit River Tribe  
Save Burney Falls  
US Forest Service - Lassen National Forest  
US Bureau of Land Management

## SUMMARY OF KEY PUBLIC OUTREACH ACTIVITIES AND PUBLIC COMMENTS ASSOCIATED WITH THE LAKE BRITTON PLANNING UNIT

### PUBLIC REVIEW OF VOLUMES I AND II OF THE LCP

The Draft Land Conservation Plan (LCP) Volumes I and II were released in June 2007 for a 60-day public comment period. During this time, the Stewardship Council held ten public meetings to publicize the availability of the Draft LCP and to encourage public comment. During public review of Volumes I and II of the LCP, five comments were submitted concerning the Lake Britton Planning Unit. Comments were received via email, the Stewardship Council website, and hardcopy letters. The comments were reviewed and responded to individually, and the text in the Draft LCP was revised as appropriate.

Public comments emphasized the following regarding the future management of the property:

- Prohibit grazing in the Lake Britton Planning Unit to protect the streambank.
- Limit timber harvesting to protect the viewshed and water quality.
- The conservation easement should protect the viewshed, limit development, and prohibit mining.
- The conservation easement should provide public access, as appropriate.

### PUBLIC INFORMATION MEETING FOR THE LAKE BRITTON PLANNING UNIT

A public information meeting for the Fall River Mills, Fall River Valley, Hat Creek, and Lake Britton planning units was hosted by the Stewardship Council on October 29, 2009 at the Veterans of Foreign Wars Hall in Burney, California. A total of 33 people attended and participated in the meeting, representing a wide variety of interests, including local and federal governments, community organizations, and community members. The primary purpose of this meeting was to solicit public input on the development of the Land Conservation and Conveyance Plans (LCCP) to preserve and enhance the Fall River Mills, Fall River Valley, Hat Creek, and Lake Britton planning units.

During the meeting, participants were invited to provide comments at the four planning unit stations, focusing on two topics: the potential priority measures proposed for the above listed planning units, and important qualifications of future land owners and conservation easement holders. A summary of the public comments concerning the Lake Britton Planning Unit is provided below.

#### **General Comments/Potential Priority Measures to Preserve and Enhance the BPVs**

- How will the conservation easement address resource rights not owned by PG&E?

#### **Important Qualifications of Future Landowners and Conservation Easement Holders**

- Experience managing easements

- Expertise in resource management (timber, minerals, grazing) and grazing as a management tool
- Financial resources, staying power to do job
- Ability to cooperate with multiple stakeholders

#### ADDITIONAL CORRESPONDENCE SUBMITTED

The Stewardship Council also received other public comments and letters from individuals and organizations regarding the future management of the Lake Britton Planning Unit, as summarized below:

- Prohibit OHV use due to potential impacts on wildlife habitat and soils.
- Assess and develop educational opportunities for the public and youth to learn about the Pit River Indian culture, such as signage, cultural resource center, and model villages.
- Protect cultural resources including, traditional and medicinal plants, sacred sites, and human remains.
- Concern that enhanced public access would impact sensitive riparian habitat.
- Support for reestablishing the Pit River Rendezvous, a yearly black powder shooting event hosted by the Pit River Pioneers.
- Support for the lands available for donation to be transferred to the Pit River Tribe.